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Item 9 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Situation of human rights in Rwanda

Note by the secretariat

1. In its resolution 2000/21, the Commission on Human Rights decided to extend the mandate of its Special Representative on the situation of human rights in Rwanda for a further year and requested him to report to the General Assembly at its fifty-fifth session and to the Commission at its fifty-seventh session. The report submitted by the Special Representative, Mr. Michel Moussalli (Switzerland), to the fifty-fifth session of the General Assembly (A/55/269) will also be made available to the Commission on Human Rights at the present session.

2. The Special Representative intends to submit to the Commission an update to the above report following his mission to Rwanda which is scheduled to be undertaken from 26 February to 12 March 2001. This brief document will be issued as an addendum to the present note, in English and French only.

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COMMISSION ON HUMAN RIGHTS
Fifty-seventh session
Agenda item 9

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Addendum

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2. The secretariat transmits* herewith to the Commission on Human Rights the Special Representative's update to the above report.

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* The annex consists of an executive summary of the report, circulated in all languages, and an appendix containing the full text, circulated in English and French only.

GE.01-12020 (E)

Annex

Executive summary

This report aims to highlight new developments and specifically includes observations and recommendations from the Special Representative's missions to Rwanda in October 2000 and February/March 2001.

Rwanda is undergoing enormous changes at the moment in several important areas - decentralization and the transition to democracy, plans to draw up a new constitution, overhauling of the justice system with the introduction of gacaca, and the promotion of a culture of human rights, unity and reconciliation. Given the still recent conflict and persisting divisions, these are all extremely courageous steps. In this respect, the Government is walking a tightrope and will require the continued support of the donor community and of civil society so that it can continue to move forward in the right direction.

The Government of Rwanda

The Government is to be commended for continuing to support independent human rights institutions, and is asked to continue to ensure the independent and effective functioning of the National Human Rights Commission.

Following the initial release of 400 prisoners under the age of 14 in December 2000, the Government, with the help of organizations working in prisons and cachots, should identify all outstanding cases and ensure their release immediately.

Children who were between 14 and 18 at the time of arrest should be treated as a priority and their cases submitted as soon as possible. Concerning plans for future releases, priority should be given to those without files, the sick and the elderly. A special committee including the Ministry of the Interior, the Ministry of Justice and the Prosecutor-General's Office, could be established to ensure the release of these priority categories. The Special Representative would like to encourage the Government to release these priority categories by the end of 2001.

The Ministry of the Interior should continue its efforts to improve conditions in prisons and cachots. Efforts to empty the cachots by releasing those without files and transferring others to prisons should continue. However, whilst detainees remain in cachots, some in conditions of severe malnutrition, a budget for the provision of food and medical facilities must be provided. The Special Representative would like to recommend that cachots be brought under the same administration as prisons, i.e. under the Ministry of the Interior, and that a specific budget be allocated to the Ministry for their administration.

Regarding gacaca, the Special Representative would like to recommend again that a gradual approach be taken to enable the Government to test the process and identify and rectify problems. He welcomes the "pre-gacaca" phase and encourages the Government to continue with this approach.

Legislation required on the compensation of victims and on community service should be drawn up with maximum consultation of civil society, human rights organizations, and with victims and the accused.

National Human Rights Commission

Having nearly completed its phase of setting up the institutional structure, the National Human Rights Commission (NHRC) should undertake to accelerate its work in the areas of the promotion and protection of human rights. It should regularly publicize its activities and achievements, in particular providing information to the Rwandan public on the outcome of human rights investigations. Efforts should also be made to accelerate the translation and distribution of the Annual Reports to its supporters.

All three national commissions should ensure close collaboration, through the "Group of Friends of the National Commissions" and through other channels. In particular, efforts must be coordinated in the areas of gacaca, decentralization and the drawing-up of the new constitution. Sharing of resources, information and expertise will allow these three commissions to function most effectively.

The NHRC should foster strong relations with civil society organizations, in particular to facilitate information-sharing and coordination amongst national human rights organizations. A regular forum for coordination and exchange between human rights NGOs should be initiated.

The NHRC should play an active role in monitoring the implementation of gacaca, in particular through its regional offices. It should work closely in this area with human rights organizations and with the Sixth Chamber of the Supreme Court, charged with coordinating gacaca.

Rwandan human rights groups

Human rights organizations have an important role to play in collaborating with the three national commissions, to make sure that human rights issues and the voice of the grass roots is heard in these national forums.

Human rights groups should continue to play a vital role in monitoring the conditions in prisons and cachots and in assisting the Government by flagging abuses of human rights and providing information on the conditions in these institutions.

Human rights organizations should be involved fully in the preparations, implementation and monitoring of gacaca. The comparative advantage of these organizations - having strong links with local communities and good knowledge of the present judicial system - should be drawn upon.

Bilateral donors

The contribution of donors to the three national commissions, both through moral encouragement and through the provision of technical and financial support is essential for their continuing success. In this respect, the "Group of Friends of the National Commissions" is a

useful forum which donors should use to gather information on the latest developments in the commissions and to provide them with feedback and, where appropriate, criticism.

With regard to support to the National Human Rights Commission, the Special Representative would like to thank those donors which have supported the initial set-up phase of the NHCR and ask for continued support in the crucial next stage of carrying out its mandate for the protection and promotion of human rights.

Concerning gacaca, donors should continue to provide financial assistance and expertise to assist the Government in undertaking necessary preparations in terms of drafting legislation, administrative preparations, training and sensitization needed before gacaca, and in the monitoring of gacaca once it is implemented. In this respect, the Special Representative would urge donor partners to support the regional offices of the NHRC which will be local "antennae" for gacaca.

Bilateral donors are urged to provide assistance for the urgent programme of demobilization. The Special Representative would ask donors to work with the Government and United Nations agencies to provide support for the reintegration needs of these young men, essential to the future stability of Rwanda.

The issue of the promotion of women's and children's rights should be given support by donors, in particular in assisting the Ministry of Gender and Women in Development and the Ministry of Local Government in passing relevant legislation and sensitizing the population.

The media

The Special Representative would like to encourage the independent media to continue raising issues of concern and to act as an important watchdog of Government. On the issue of media regulation, efforts to open up the "space" for free expression should continue, in particular through coordination with all media to establish common positions on media regulation issues. A common position on the new NGO law should be elaborated and advocacy on this maintained until the law is passed.

International non-governmental organizations

The Special Representative commends the important work of international NGOs in providing assistance in a wide range of sectors, and for their role in promoting a culture of human rights through the strengthening of civil society. He would like to ask for their continued support, in particular in working with the national commissions to provide expertise on participatory approaches to development.

He would also like to applaud the willingness of international NGOs to address difficult issues such as the conditions in Rwanda's prisons and cachots and encourages them to continue their necessary role of service-provider and watchdog.

Concerning support for gacaca, the Special Representative would like to urge international NGOs to assist in the preparations and implementation of gacaca. He would encourage further support for the "pre-gacaca" initiative, such as provided by the Réseau de citoyens (Citizens' Network).

United Nations system

The United Nations can provide unique support to the national commissions through the provision of technical expertise and advice. In addition to the individual support of United Nations agencies to different commissions, the United Nations Development Assistance Framework (UNDAF), which will determine the coordinated efforts of the United Nations agencies in Rwanda, should perform a useful role in channelling and coordinating United Nations support. Human rights issues should be fully integrated into this programme framework.

The Special Representative would request the United Nations to assist where possible in providing assistance and legal expertise to the Government and to the national commissions for the drafting of the host of laws required for gacaca, decentralization, anti-racial and anti-sexual discriminatory legislation, land tenure, child rights, etc.

UNDP, through its Governance and Justice and Human Rights Units, should continue to play a key role as the engine and coordination body for United Nations support to human rights. In particular, the role of the secretariat of the "Group of Friends of the National Commissions" should continue.

UNDP should continue to provide expertise and financial assistance to the Government's decentralization policy. In particular, further assistance will be required in the area of capacity-building and in the development of a policy for fiscal decentralization.

UNICEF should continue its important role in providing assistance and support to the Government on issues concerning the rights of the child. In particular, UNICEF should work closely with the recently established Task Force on Child Rights to continue the strong momentum achieved in recent months by the Government in the area of reporting on international human rights conventions.

WFP should reconsider its decision to discontinue providing food assistance to the cachots, given the particularly precarious nutritional situation in the cachots and the circumstances of recent drought in areas where the cachots are based.

Conclusion

The Special Representative wishes, once more, to conclude his report by urging all concerned authorities and organizations, in Africa as well as in the United Nations, to use all possible means to ensure that peace and security finally prevail and are respected throughout the Great Lakes region; that all civilian populations in the region are fully protected; and that their basic economic needs are fulfilled. These are the fundamental requirements for allowing a culture of human rights to develop and to take deep root in the region.

Appendix

OBSERVATIONS AND RECOMMENDATIONS CONCERNING RECENT HUMAN RIGHTS DEVELOPMENTS IN RWANDA OF THE SPECIAL REPRESENTATIVE OF THE COMMISSION ON HUMAN RIGHTS, MICHEL MOUSSALLI, FOLLOWING HIS VISITS TO RWANDA IN OCTOBER 2000 AND FEBRUARY/MARCH 2001

Introduction

1. This report is a summary of observations and recommendations concerning the human rights situation in Rwanda and should be read in conjunction with and as an addendum to the last report of the Special Representative submitted to the General Assembly (A/55/269), dated 4 August 2000. It aims to highlight new developments, and specifically includes observations and recommendations emanating from his missions to Rwanda in October 2000 and February/March 2001.

I. MAIN OBSERVATIONS AND RECOMMENDATIONS

2. **National commissions**. All three national commissions have achieved good progress since the writing of his August 2000 report to the General Assembly. This is due to the dedication and hard work of the Presidents, Commissioners and staff of the commissions and thanks to the strong support they have received from the international community, in terms of technical assistance and funding.

3. **National Human Rights Commission (NHRC)**. A development of major importance since the writing of the Special Representative's last report was the signature, on 24 October 2000, of a programme of assistance and cooperation between the Office of the High Commissioner for Human Rights (OHCHR) and the NHRC, opening up a new chapter in relations between Rwanda and OHCHR. This programme, which started in November 2000, is designed to facilitate the effective functioning of the NHRC by improving its technical and substantive capacity. Consultants were provided to carry out a rapid needs assessment in the areas of human rights training, the establishment of a human rights documentation centre and office automation.

4. The Special Representative would also like to commend the significant support provided to the NHRC by the Justice and Human Rights Unit of the United Nations Development Programme (UNDP). In addition to acting as secretariat for the Group of Friends of the Commissions, UNDP is providing support through a programme of capacity-building for the NHRC funded by the Government of Switzerland. Since November 2000, the NHRC has benefited from a highly competent and respected international expert who has been facilitating consultations to identify key issues and challenges as a first step towards the development of an integrated National Action Plan for Human Rights.

5. The Special Representative attended the first meeting of the Steering Committee of the NHRC on 27 February when the terms of reference for the Steering Committee were adopted, a review of the Commission's work was undertaken and discussions held on the major tasks ahead. The Special Representative noted with satisfaction that human rights non-governmental organizations (NGOs) are members of the Steering Committee.

6. **Achievements of the NHRC**. The Special Representative is pleased to report on the following achievements. Having completed its recruitment target in December 2000, the NHRC has been able to step up its work on the promotion and protection of human rights. A number of human rights training and education programmes took place in 2000, including the provision of training for junior and senior police officers in Kibuye and Gitarama, for over 500 senior non-commissioned officers in the army, for secondary school students and for students of Kigali University and the Kigali Health Institute. From 7 to 10 March, a training seminar for staff on human rights investigation techniques, financed by USAID, was held in Kigali where training sessions were provided by commissioners, government officials from the Ministry of Justice and the Ministry of Social Affairs, Human Rights Watch, the International Committee of the Red Cross (ICRC), the National University of Rwanda, and the International Criminal Tribunal for Rwanda (ICTR).

7. The Special Representative was informed that, in the course of the year, investigations have been held into questions of illegal detention, disappearances, torture, property disputes, and due process of law. The results of these cases will be detailed in the Commission's second Annual Report to be issued at the end of March. The Commission has also received a number of complaints regarding the recent district election procedures and has initiated investigations.

8. The Commission also undertook an initiative to assess the conditions in cachots and prisons. The first phase of assessing conditions in cachots in Gitarama, Butare, Gikongo and Gisenyi was initiated in June 2000. The second phase will be completed in the coming months. Visits have also been undertaken to prisons in Kigali and Kibungo, including to Nsinda prison, the subject of a recent controversial report by the human rights NGO LIPRODHOR. The findings of these assessments are due to be published in two separate reports by the end of April 2001.

9. From 22 to 24 January, the Commission participated in a Preparatory Conference against Racism, Discrimination and Xenophobia, which will be followed by the Durban Conference later this year.

10. The achievements during 2000, including the results of human rights investigations undertaken, will be reflected in the Annual Report which is being finalized and will be presented to Government on 31 March 2001. **The Special Representative recommends the speedy translation of this document into French and English so that the Commission's international supporters can be kept informed of events. He also recommends that the release of this report be accompanied by wide media coverage for the Rwandan population**.

11. **The main activities and achievements of the NHRC should be regularly brought to the attention of the general public and Rwandan civil society, through as many means as possible - press conferences, radio, television broadcasts and the Internet**. In this respect,

the Special Representative was pleased to hear that a live televised panel discussion of the Commissioners took place in December on the Universal Declaration of Human Rights, and that weekly radio broadcasts on the work of the Commission are due to start in mid-March.

12. In the coming months, the Commission plans to open 10 regional offices throughout the country to enable the Commission to better investigate allegations of local human rights abuses, to be more accessible to rural communities, and to act as a regional "antenna" for human rights issues. It is envisaged that these regional offices will perform a useful function in monitoring the gacaca trials.

13. **National Unity and Reconciliation Commission (NURC)**. The Special Representative is impressed by the efforts of the Rwandan population to overcome divisions and to address the difficult issue of reconciliation. He was grateful to hear from the NURC Executive Director that there has been a recent "opening-up" of dialogue on divisions within Rwandan society. The Special Representative was very pleased to be able to attend the first National Summit on Unity and Reconciliation, organized by the NURC in Kigali from 18 to 20 October, gathering Rwandans from all walks of life and from abroad to engage in dialogue on how to foster unity and reconciliation in Rwanda. In the conclusions of this summit, the role of human rights in the process of reconciliation was stressed.

14. The NURC is currently examining the link between justice and reconciliation and in particular addressing the question of how the gacaca justice system could promote reconciliation efforts. A workshop is planned for 21-26 April on "Justice, democratization and reconciliation". Questions such as how to reintegrate prisoners into society and what types of community service will promote reconciliation will be of key importance. Anti-discrimination legislation is currently being drafted by the NURC. The NURC Executive Director raised the need for international expertise to assist in the drawing up of legislation. The NURC is eagerly awaiting the appointment by UNDP of an international expert to assist its work under the programme of support to capacity-building developed by UNDP with the financial support of Switzerland.

15. **Constitutional Commission**. The Special Representative was pleased to meet the President of the Constitutional Commission and to discuss its enormous task ahead. This Commission, which started its work in January 2001, is charged with drafting the new constitution and reviewing other laws, including the electoral law, before the first national elections, expected to take place in 2003. A meeting was held on 1 March with members of the donor community to present the Commission's Action Plan and Budget. Key elements of the Action Plan include sensitization and training of local representatives on all aspects of the Constitution and on information-collecting techniques, training and sensitization of the population by local representatives, and awareness-raising through the media. The Commission also plans to draw on the information and experiences of other countries. The drafting of the new constitution will be carried out through in-depth participation and consultations with all sectors of the population including local communities, local and central administration, and civil society groups. Important debates on the future system of governance and the legal framework will take place, and issues of human rights will be a key component. For example, the question of the death penalty will be discussed.

16. **Support to the national commissions and coordination**. Both the NHRC and the NURC currently benefit from the "Group of Friends of the National Commissions", an informal working group of representatives of donor countries coordinated by UNDP, which plays a useful role by enabling donors to follow the work of the commissions and provide feedback on the commission's activities. The twelfth meeting of this group took place on 21 February, hosted by the United States Ambassador. The Presidents of the two commissions and eight donors attending heard a presentation of the recent work of the commissions. **The Special Representative would like to recommend that the Constitution Commission, although at an early stage in its development, join the "Group of Friends of the National Commissions" at the earliest opportunity**.

17. **Agreement between the Inter-Parliamentary Union and the Transitional National Assembly**. Two agreements of cooperation between the Inter-Parliamentary Union (IPU) and the Transitional National Assembly were signed on 22 January. These projects, financed through a framework of cooperation between UNDP and the IPU, provide support to the parliamentary Committee on National Unity and Reconciliation and Human Rights and the Rwandan Women's Parliamentary Forum. Support to the parliamentary Committee on National Unity and Reconciliation and Human Rights includes the establishment of a mini-documentation centre on human rights and facilitation of study trips to different parliaments, as well as a training session on human rights in Kigali. The programme of support to the Rwandan Women's Parliamentary Forum aims to strengthen the capacity of women members of parliament to ensure that women's rights and gender issues are incorporated into the new constitution. It also aims to sensitize men, as well as women members of parliament on gender issues and how to better integrate these into legislation.

18. **Decentralization**. The Government of Rwanda has taken major steps in recent months towards decentralization and democracy. A new structure of territorial administration, representing a total departure from the previous structure, was introduced in December 2000, changing the names of the administrative structures - prefectures have became provinces and communes have become districts - and reducing the total number of districts from 154 to 106, each district encompassing a population of 50,000-75,000.

19. The aim of decentralization - to bring services closer to the people and enable greater participation by the population in decision-making on issues directly affecting them - is to be welcomed. However, it is certain that the new system of administration will face some "teething problems". **The Special Representative would like to recommend that the international community support the decentralization process by offering expertise and financial assistance to help resolve inevitable early difficulties. In particular, assistance will be required in the area of capacity-building and in the development of a decentralized fiscal policy**.

20. **Elections**. Local elections for District Councillors took place from 6 to 10 March and the Special Representative was able to witness the elections, as was an informal group of observers from the donor community, facilitated by the Governance Unit of UNDP. Those elections followed elections held in March 1999 at cell and sector levels and were an important step in the transition to democracy, with national elections due to take place in 2003. Whereas the elections in 1999 were criticized by some for the failure to use secret ballots - voters lined up publicly

behind the candidate of their choice - this year's district elections did use secret ballots. It was generally thought that the elections were well organized, with a high turnout rate (estimated at 90 per cent). Also to be welcomed is the fact that a quota of council seats (20 per cent) were reserved for women and youth. Furthermore, within the Executive Committee of five people in the District Council, one will be responsible for women and one for youth.

21. However, critics have expressed some concern over the complexity of the electoral system and the extent to which the elections were a kind of indirect election of the President and the Executive Committee of the District Councils, as the local officials elected at cell and sector levels in 1999 form the majority of the Electoral College, which is responsible for electing the President and the four District Councillors constituting the Executive Committee. Another criticism which has been levelled at the pre-election process is that insufficient time was allowed for campaigning, with the result that many voters did not know very much about the candidates. The Special Representative met with the organizers of the elections and with the President of the Electoral Commission and he visited three polling stations in Kigali rural area. He was impressed by the efforts of all those involved to ensure that the process was as fair and transparent as possible. Several representatives of the international community, who travelled throughout the country to observe the elections, stated to the Special Representative that indeed, in certain instances, severe irregularities and technical failures had occurred, but, on the whole, the elections were an important step forward for the population of Rwanda in the process of participation and of democratization.

22. **Justice and gacaca**. The Special Representative reiterates his support for the courageous efforts of the Government to tackle the problem of justice, through the new justice system of gacaca. After an initial hesitation on the part of the international community on gacaca, there seems to be growing support for this policy, particularly following recent successful pre-gacaca trials (see below) and given the unsustainable and undesirable situation of overcrowded prisons and cachots. Although it was previously envisaged that gacaca would start at the beginning of this year, the Special Representative was informed by the Minister of Justice that trials are now expected to start by the end of 2001. This is due to the host of preparations required in terms of legislation, administrative preparations, training and sensitization before gacaca can be implemented.

23. Concerning legislation, the Special Representative understands that the gacaca law was recently approved by the Constitutional Court and has been transmitted to the Prime Minister's Office for approval before being sent to the President for signature. The law on the election of judges is well advanced and has been transmitted to the Ministry of Justice for opinion. Legislation on the Reparation Fund is currently being drafted and the Minister of Justice informed the Special Representative of his intention to hold a conference to consult with all those involved, including prisoners. **The issue of non-payment of reparations under the present legal system and how this may detract from the legitimacy of gacaca if not addressed is of major concern. The Special Representative urges the international community to assist the Government in addressing this issue**.

24. As community service is expected to be introduced as a penalty under gacaca, extensive consultations and preparations to determine the most appropriate types of community service, and how the system will be administered, will be necessary. In particular, the question of what

type of community service will foster reconciliation needs to be addressed. The Special Representative has been informed that a presidential decree on community service is under preparation. **The Special Representative urges maximum consultations with the international community and civil society on the question of community service**.

25. The Special Representative was interested to hear that a kind of test phase, or "pre-gacaca", has taken place for detainees in Gisovu prison, Kibuye, in November and December 2000 and that the results were very positive. This experiment was carried out by the Rwandan Office of the Prosecutor General with assistance from the international NGO, Réseau de Citoyens (Citizens Network), under the supervision of the Office of the Prosecutor General of Ruhengeri. The first stage of this process involved the identification, review, completion and establishment of files for the 3,434 prisoners from Kibuye. The 544 files which contained no or very little evidence of participation in the genocide, (17 per cent) were kept for the second phase: presentation of the detainees to the population. These detainees were then presented to the public one by one, over a period of six weeks, and members of the population were invited to give testimony in favour or against the person in question. Of the 544 detainees, the population decided that 256 (47 per cent) should be released. The same procedure has been repeated for detainees from Ruhengeri and is to be carried out in Butare. Penal Reform International (PRI) is planning to study the process in Butare which it is hoped will provide insights into some of the eventual problems. The Special Representative warmly welcomes this courageous, and at the same time prudent approach to the implementation of gacaca, and hopes that these kinds of positive results will emerge from the "real" gacaca.

26. **Continued support to the classical justice system**. With the current spotlight on gacaca, it is important not to forget that the current justice system will continue to require support in the future. The Special Representative commends the continued efforts of the international community in providing financial and technical assistance to the traditional justice sector and appeals for their continued support. He welcomes, in particular, the secondment to the Ministry of Justice - by UNDP with the financial assistance of Switzerland - of a most qualified consultant who has carried out an extensive study on the present structure and needs of the classical justice system in Rwanda. His report is due to be submitted, by early April, to the Minister of Justice and to all concerned officials, and will contain most helpful suggestions to strengthen the justice system in Rwanda. **The Special Representative very much hopes that these recommendations will receive the appropriate attention and support from the Government of Rwanda and the international community. Adequate attention and support should also be provided to the structure and needs of the Supreme Court and of its six Chambers which play a major role in the respect of the rule of law in Rwanda and the independence of the judges**.

27. **Detainees in prisons and cachots**. Considerable attention was paid by the Special Representative to conditions of detention in his last report and this subject continues to be a major preoccupation. There are still some 92,000 detainees in prisons and 20,000 in cachots in Rwanda. Of these, some 3,400 are women and 3,500 minors (under the age of 18 at the time of allegedly committing the crime). According to UNICEF, approximately 106 children under the age of 3 are also with their detained mothers. It is clear that for a country as small as Rwanda, with limited resources, this presents an enormous challenge to the authorities and it is well known that the conditions in Rwanda's prisons and cachots need considerable improvement.

28. The Government has accelerated its efforts to release detainees without files, to regularize files, and to reduce the numbers held in communal cachots by transferring them to prisons. Therefore, whilst the overall figure for detainees in prisons has not changed compared with a year ago, the overall number in both prisons and cachots has been reduced considerably with the emptying of some cachots. Since December 1999 the number of detainees in cachots has fallen by approximately 10,000 and the number of cachots has been reduced from about 133 to 95. The Special Representative also notes with satisfaction that whereas over 5,000 detainees were released during 2000, there were only 2,500 new arrests. This is a positive evolution, and **the process of emptying the cachots must be a priority, to be supported by the international community**.

29. **Minors in detention**. The Special Representative was pleased to be informed by the Minister of Justice last October of the Government's decision to release all children under 14 at the time of allegedly committing crimes. Between 400 and 500 minors were consequently released in December. They participated in a six-week workshop organized by the Ministry of Justice and the NURC, with financial support from UNICEF, where they received counselling and education and training for their reintegration into society. **NURC is working closely with ASOFERWA (a local NGO which assists women and children in need), which will provide longer-term support and follow-up of these cases and the Special Representative urges UNICEF to continue to support this essential programme**. The Special Representative was concerned to hear, however, that there are still a few hundred minors who were under 14 at the time of allegedly committing a crime still in detention owing to difficulties in determining their true age. During discussions with the Minister of Justice, the Special Representative was promised that every effort would be made to identify and release these outstanding cases. Another difficulty is that many of the minors in detention have incomplete files. **According to UNICEF, only approximately 35 per cent of minors in detention have complete files. The Special Representative urges the Government to treat this question as a matter of the highest priority**.

30. As for the estimated 3,500 minors who were between the ages of 14 and 18 at the time of allegedly committing crimes, the Minister stated that their cases will have priority. It is uncertain at this stage whether these cases will be tried under the classic system (where their sentences would be halved), or under gacaca (where the sentences would be halved and the minors would also be able to spend half their sentences performing community service). The latter scenario may be preferable, but obviously this would depend on the speed with which gacaca comes into effect.

31. **Other vulnerable detainees**. The Special Representative was pleased to hear from the Prosecutor General that an instruction has been issued to release all chronically ill and elderly detainees. At the time of writing, it was apparent that this had not yet been undertaken but the Prime Minister has promised the Special Representative that he will ensure the rapid implementation of this decision.

32. **Cachots**. It is well known that conditions in some Rwandans cachots are deplorable and very often inhumane. Cachots are meant to be temporary, holding detainees for up to 48 hours until they can be transferred to prison. Precisely because they are temporary, the local district (previously commune) has no budget allocated to them to keep prisoners. Detainees must rely

on family and international assistance for food and medical care, and many suffer from extreme overcrowding, unhygienic conditions and lack of food. According to one reliable report, only 6 of the 30 of most populated cachots showed satisfactory results in terms of nutritional status and over 30 per cent of cachot detainees could be considered severely malnourished. Owing to this deplorable situation, a number of international organizations have taken on the task of providing much-needed assistance. For example, Concern Worldwide, Caritas and the World Food Programme provide food, firewood and water, help to build latrines, facilitate income-generating projects and assist detainees in growing their own food. Most of these programmes are located in the two worst-affected districts of Butare and Gitarama. The Special Representative was concerned to hear that WFP plans to discontinue its provision of food to the cachots from June 2001. Given that these regions are still suffering from drought and that families are unable to provide assistance to relatives in the cachots, he fears that this would contribute to a serious deterioration of the already fragile nutritional status of detainees. **The Special Representative appeals to WFP to reconsider its decision to discontinue providing food assistance to the cachots**.

33. The Special Representative understands that the Government intends eventually to close the cachots and transfer the detainees to prisons. However, until this is achieved, interim measures must be taken to ensure that basic human rights standards are upheld. **The Special Representative recommends urgent action by the Government to bring the cachots under the same administration as the prisons, i.e. under the Ministry of the Interior, and that a specific budget be allocated to the Ministry for the food and medical needs of these detainees**.

34. The role of human rights organizations in monitoring and reporting on possible human rights abuses in prisons and cachots is essential and must be encouraged. In this respect, the Special Representative was distressed to hear that a communiqué issued by LIPRODHOR, which included allegations of poor hygiene in Nsinda prison caused considerable controversy and that the organization was asked to retract its statement on the grounds that it was incorrect and insufficiently researched. Although there have been some doubts raised as to whether the conditions in this specific prison were indeed as poor as the communiqué suggested, this incident nonetheless underlines the importance of fostering a healthy relationship between human right organizations and government authorities, whereby human rights NGOs can assist the Government in providing information and expertise. It also underlines the need for human rights NGOs to ensure responsible reporting.

35. **The reintegration "gap"**. Large numbers of the Rwandan population are still without shelter, living in extremely precarious circumstances. Although the "emergency period" is deemed to be over by most actors in Rwanda and the displaced persons crisis in the north-west was successfully addressed by the Government with the support of the international community, it is apparent that the reintegration needs of large numbers of Rwandans have not been sufficiently addressed. With the United Nations Joint Reintegration Programming Unit (UNHCR/UNDP/WFP) having been dismantled, and with the current focus of most agencies and donors on "development", there is a danger that these people, who are still in desperate need of assistance, will not be reached. The Special Representative understands that a mission to Rwanda was recently undertaken in the context of the so-called Brookings process on the reintegration "gap". **The Special Representative would appeal to the international**

community to address this problem, and in particular would ask that the Office for the Coordination of Humanitarian Affairs (OCHA) undertake an assessment to establish the outstanding reintegration needs and design a strategy for United Nations intervention.

36. **Land tenure**. This is a key issue, which needs to be resolved for reconciliation and sustainable development. Rwanda is the most densely populated country in Africa. With large numbers of returnees (new and old caseload), a rising population and many homeless and unsheltered people, the question of ownership and distribution of land is key. How to accommodate the demobilized soldiers expected to return from the Democratic Republic of the Congo will also have to be addressed, as will the integration of released prisoners. The questions of how to absorb these arriving populations and accommodate existing groups and of access to and inheritance of land could lead to increased tensions if not addressed properly.

37. **Women's inheritance law**. Concerning the new law which permits women to own and inherit land, the Government has begun a nationwide information campaign to educate the population on the changes in women's inheritance rights. From September to December 2000, the women's umbrella organization Pro-Femmes has undertaken a sensitization campaign, working with local NGOs to reach local communities, and has met with some 120 men and women from local authorities in three regions. **This work will continue in 2001 and the Special Representative would like to ask donors and civil society organizations to provide maximum support in this important initiative.**

38. **Assistance to genocide survivors**. The Special Representative was concerned to hear during visits to Rwanda that many genocide survivors are still in dire need of assistance, and that many feel abandoned by the international community. Genocide survivors are amongst the most vulnerable people in Rwanda and include many widows, orphans and disabled and traumatized people trying to rebuild their lives after the genocide. For this reason, they require particular, targeted assistance. The Survivors Fund, a funding mechanism initiated by the Government to enable support to be channelled to survivors, has not been as successful as had been hoped in providing funds. **The Special Representative appeals to the international community to come up with imaginative solutions to this problem. The question of how compensation will be administered under gacaca urgently needs to be addressed.**

39. **Strengthening civil society**. The Special Representative places primordial importance on the role of civil society in promoting a culture of human rights in Rwanda. Civil society is a controversial term. However, Rwanda's civil society could typically encompass NGOs, women's movements, religious groups, trade unions, the press and local community groups. The strengthening of civil society to empower local citizens to participate in decisions affecting them is a key part of the decentralization process now under way. The Government's Poverty Reduction Strategy Paper (PRSP), the focus of Rwanda's poverty alleviation efforts, is based on such a participatory approach. **The Special Representative would urge the NHRC and human rights organizations to engage fully in the PRSP process, in order to ensure that human rights issues are fully integrated into Rwanda's development strategy.**

40. The Special Representative would like to commend the efforts of international NGOs such as Trocaire that are using participatory training methods with NGO partners to promote

awareness-raising in the areas of peace and reconciliation, human rights and justice. Such initiatives, encouraging people to be responsive and to demand their civic and human rights, are key.

41. **NGO law**. International and local NGOs are key players in the delivery of some social services, and are important channels for development assistance from bilateral and multilateral donors. However, the number and scope of NGOs can present difficulties for the Government in terms of coordination and knowing "who is doing what". The passing of the law on the registration of NGOs, which has not yet been published, has met with considerable concerns from NGO representatives on the grounds that it is too restrictive and over-burdensome, and that NGOs refused accreditation are denied the right to appeal. The fear is that it will prevent a number of legitimate and well-intentioned NGOs from operating in Rwanda. **The Special Representative would like to urge the Government to consider these views and to ensure that the right balance is struck between the need for regulation and coordination, and the desirability of maintaining an active and independent civil society**.

42. Human rights NGOs play an important role, both as "watchdogs" of human rights and as effective instruments for advocacy. It is important that sufficient space be provided for them to operate freely and that they be able to participate actively in national human rights initiatives and by promoting the integration of human rights elements across all development programmes.

43. **Freedom of expression**. The Special Representative believes that Rwanda's independent press has a vital role to play in ensuring the transition to democracy and in the promotion of a culture of human rights in Rwanda. The specific history in Rwanda of the use of the media as a mechanism to promote genocide underlines the need to nurture a free but responsible media. The Special Representative was pleased to note the growing number of new independent newspapers such as UMUSESO, the Rwanda Herald and Kumekucha. However, he also noted with grave concern reports that the weekly English newspaper NewsLine had been harassed, that its editor had received threatening telephone calls and that he had encountered difficulty in leaving the country in early March. There have also been reports that pressure was applied on advertisers to withdraw advertising. As a result, NewsLine did not publish in December 2000 or January 2001. These are serious incidents of the limitation of free expression and **the Special Representative would urge the Government to tackle obstacles preventing free reporting in Rwanda**.

44. The Special Representative also notes with concern that there is no local printing press for newspapers and that newspapers are forced to print in Uganda, which may be prohibitively expensive for some. **The Special Representative would like to encourage donors to continue to provide the necessary support and encouragement to independent media**.

45. **The press law**. The Special Representative was pleased to hear that the draft press law drawn up by the former Ministry of Information following in-depth consultations with Rwandan journalists is largely viewed by the media as a positive and balanced approach to media regulation in Rwanda, which will enhance their ability to operate effectively. In particular, the law would enable the opening-up of the radio waves to private operators, and the Special Representative has been informed that several potential radio operators are eagerly awaiting the passage of the law. It would also provide journalists with a code of conduct which would serve

as a useful guideline to ensure responsible reporting. Unfortunately, the passage of this law has been delayed; the Special Representative understands that the draft law has been transmitted to the Ministry of Local Affairs, and is then to be reviewed by the Government. **He would urge that the press law be passed as soon as possible to enable the development of a free, dynamic and responsible media.**

46. **Situation of women and children**. The rights of women and children are of particular concern to the Special Representative. Women and children suffered terribly during the genocide and continue to be amongst the most vulnerable sectors of the population. Many women and children were raped and witnessed horrific violence and suffer from trauma. A large number of households are headed by women or children, as husbands and parents were killed or fled the country. The protection and promotion of the rights of women and children, both as vulnerable sectors of society and as the future shapers of Rwandan society, is of great importance.

47. **The rights of women**. Rwanda ratified the Convention on the Elimination of All Forms of Discrimination against Women in 1981, without any reservations. However, as in many other countries, the adoption of the Convention did not lead to immediate changes in customary laws which discriminated against women, particularly laws concerning the right to inherit land and property. The Ministry of Gender and Women in Development is currently coordinating the next report to the Committee on the Elimination of Discrimination against Women (CEDAW), which will be presented next year. The Optional Protocol to the Convention which creates a mechanism at the international level for enforcing women's rights, is a new development. The Ministry is planning to table a discussion on the Optional Protocol in the Cabinet later this year.

48. Women in Rwanda, particularly female heads of household, face severe constraints owing to their lack of legal or actual access to resources and to educational and social disadvantages. In this context, the Special Representative was pleased to note the first concrete results emerging from a number of government and civil society initiatives to promote women's rights and participation in all sectors of society. The Special Representative particularly welcomes the recent adoption by parliament of a law on gender-based violence.

49. The Special Representative encourages the three commissions in their role in promoting women's rights and participation in decision-making processes and emphasizes the role that the National Commission for Human Rights should play in promoting and defending the rights of women. **The Special Representative stresses the need for continued support to the Ministry of Gender and Women in Development to enable these positive developments to be reinforced and sustained.**

50. **The rights of the child**. The Special Representative welcomes the news that the Government has made great steps in fulfilling its international reporting obligations on the situation of the rights of children in Rwanda in recent months, and in setting up coordination mechanisms and preparations for the formulation of a national action plan for the coming decade.

51. The first National Conference on the Rights of the Child was held in Kigali from 14 to 18 August 2000, gathering more than 150 participants from Government,

international organizations and civil society concerned with the promotion and protection of the rights of the child. This conference was organized by the Ministry of Local Administration and Social Affairs (MINALOC), under the patronage of the First Lady, Jeannette Kagame, with technical and financial support from UNICEF. The conference had four main objectives: to evaluate and report on the situation of children in Rwanda with regard to international conventions; to exchange information and establish a mechanism for the coordination of programmes targeted at vulnerable groups (namely child heads of household, fostered children, child refugees outside Rwanda, orphans, children with HIV/AIDS, street children and the disabled); to establish mechanisms for the completion of the national report on the implementation of the Convention on the Rights of the Child and the national report on the follow-up to the 1990 World Summit for Children; and to propose a National Action Plan for Children for 2001-2010.

52. The Special Representative is pleased to confirm that the long-awaited national report on the implementation of the Convention on the Rights of the Child is due to be completed by the end of March, and will be submitted to the General Assembly Special Session for Children to be held in New York in September 2001. The Special Representative congratulates the Government of Rwanda and all its partners involved in this important work.

53. The Special Representative would particularly like to commend UNICEF and national and international NGOs working to support the rights of the child in the areas of health, education, HIV/AIDS, street children, and so on. Programme such as Child Survival Programme of the International Rescue Committee, supporting the Ministry of Health to ensure the health and nutritional status of children under five, make an enormous difference.

54. The Special Representative was also delighted to hear that, following the recommendation of his last report, a special inter-ministerial Task Force on the Rights of the Child has been established under the direction of MINALOC, composed of representatives from each ministry, the Presidency, the Social Affairs Committee of the parliament, the National Human Rights Commission, UNICEF and several NGOs. The Special Representative was reassured by the First Lady that she will continue to provide active support to this important Task Force in collaboration with the Secretary-General of MINALOC.

55. **Demobilization**. The Government has recently stepped up efforts for the demobilization and reintegration into society of soldiers. In January 2001, there has been a restructuring of the national Demobilization Commission, with the appointment of a new President who will be able to commit his full efforts to the work of the Commission. A ceremony was held recently for over 5,000 soldiers who will receive on average a "safety net allowance" of US$ 1,000. Unfortunately, the needed reintegration elements, including vocational training, micro-credit projects and reintegration into the education system, cannot be carried out at present by the Government owing to lack of funds. It is hoped that efforts to resolve the conflict in the Democratic Republic of the Congo will enable the demobilization of many more soldiers in the coming months and the need to support this effort will be crucial to maintaining stability and order in Rwanda. **The Special Representative urges the international community to assist the Demobilization Commission in its efforts. He understands that UNDP and the World Bank are both ready to assist in the elaboration of a new programme**.

II. CONCLUSION

56. Rwanda is undergoing enormous changes at the moment in several important areas: decentralization and the transition to democracy, plans to draw up a new constitution, overhauling of the justice system with the introduction of gacaca, and the promotion of a culture of human rights, unity and reconciliation. Given the still recent conflict and persisting divisions, these are all extremely courageous steps. In this respect, the Government is walking a tightrope and will require the continued support of the donor community and of civil society so that it can continue to move forward in the right direction.

57. The Special Representative cannot but fully concur with the views expressed to him by the President of the Republic of Rwanda in a meeting at the Presidency on 11 March 2001, namely that the promotion and respect of human rights are essential for the unity and reconciliation of the Rwandese people and communities after the terrible events of their modern history, and that this will always remain Rwanda's fundamental concern. But the Government of Rwanda has equally to ensure that the population enjoys full security and basic essential needs. Hence the efforts of Rwanda, together with its international partners, to develop an intensive programme for the reduction of poverty, as well as to ensure peace and security, throughout the Great Lakes region of Africa, in accordance with the Lusaka peace process. All these major concerns are closely interlinked and cannot be dissociated from one another.

58. **The Special Representative would wish, once more, to conclude his report by urging all concerned authorities and organizations, in Africa as well as in the United Nations, to use all possible means to ensure that peace and security finally prevail and are respected throughout the Great Lakes region; that all civilian populations in the region are fully protected; and that their basic economic needs are fulfilled. These are the fundamental requirements for a culture of human rights to develop and to take deep root in the region.**

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Fifty-seventh session
Agenda item 9

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Situation of human rights in Rwanda

Note by the secretariat

Addendum

Corrigendum

From the masthead delete ENGLISH AND FRENCH ONLY.

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